

## **ATTACHMENT H - MINORITY BUSINESS ENTERPRISE INSTRUCTIONS AND FORMS**

### **STATE OF MARYLAND DEPARTMENT OF BUDGET & MANAGEMENT MINORITY BUSINESS ENTERPRISE PARTICIPATION**

#### **PURPOSE**

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the minority business enterprise (MBE) goal stated in the Invitation for Bids. MBE performance must be in accordance with this Attachment, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Attachment.

#### **DEFINITIONS**

As used in this Attachment, the following words have the meanings indicated.

- ◆ “Certification” means a determination made by the Maryland Department of Transportation that a legal entity is a minority business enterprise.
- ◆ “MBE Liaison” is the employee designated to administer this Department’s MBE program.
- ◆ “Minority Business Enterprise” or “MBE” means any legal entity, other than a joint venture, organized to engage in commercial transactions, which is:
  - (1) at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged; and
  - (2) managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

*Note:* A minority business enterprise also includes a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals.

An MBE **must be** certified in order to have its contract participation counted under the Department’s MBE program.

#### **MBE GOALS AND SUB-GOALS**

An overall MBE subcontract participation goal of 10 percent of the total contract dollar amount has been established for this procurement. This dollar amount includes:

- ☐ A sub-goal of (N/A) percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as women-owned businesses.
- ☐ A sub-goal of (N/A) percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as African American-owned businesses.

By submitting a response to this solicitation, the bidder agrees that these dollar amounts of the contract will be performed by certified minority business enterprises as specified.

- ◆ A prime contractor — including an MBE prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors.
- ◆ A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors.

### **SOLICITATION AND CONTRACT FORMATION**

A bidder **must include with its bid** the following completed MBE Forms. **If a bidder fails to submit these forms, the Department may deem the bid non-responsive.**

1. Certified MBE Utilization and Fair Solicitation Affidavit (ATTACHMENT H-1) whereby the bidder acknowledges the certified MBE participation goal, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
2. Outreach Efforts Compliance (ATTACHMENT H-2)
3. MBE Participation Schedule (ATTACHMENT H-3)
4. Subcontractor Project Participation Statement (ATTACHMENT H-4)

In the rare event that the apparent awardee believes a waiver is necessary of the overall MBE goal or of any sub-goal by MBE classification, it may submit a waiver request that complies with COMAR 21.11.03.11 in the place of the MBE Participation Schedule.

The apparent awardee must also provide any other documentation required by the Department's MBE Liaison to ascertain bidder's responsibility in connection with the certified MBE participation goal.

### **CONTRACT ADMINISTRATION REQUIREMENTS**

Contractor shall:

1. Submit monthly to the Department a report listing all payments made to MBE subcontractors during the preceding 30 days, as well as any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made (Attachment H-5).
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices (Attachment H-6).
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the Department, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

**ADDITIONAL ATTACHMENTS TO**  
**MINORITY BUSINESS ENTERPRISE PARTICIPATION FORMS**

**ATTACHMENT H-1** - *Certified MBE Utilization and Fair Solicitation Affidavit* (must be submitted with bid)

**ATTACHMENT H-2** - *Outreach Efforts Compliance* (must be submitted with bid)

**ATTACHMENT H-3** - *MBE Participation Schedule* (must be submitted with bid)

**ATTACHMENT H-4** - *Subcontractor Project Participation Statement* (must be submitted with bid)

**ATTACHMENT H-5** - Maryland Department of Budget and Management Minority Business Enterprise Participation – Prime Contractor Paid/Unpaid MBE Invoice Report (must be submitted monthly by contractor after contract award)

**ATTACHMENT H-6** - Maryland Department of Budget and Management Minority Business Enterprise Participation – Subcontractor Paid/Unpaid MBE Invoice Report (must be submitted monthly by contractor after contract award)

**ATTACHMENT H-1**

**CERTIFIED MBE UTILIZATION**  
**AND FAIR SOLICITATION**

**AFFIDAVIT**

In conjunction with the bid submitted in response to Solicitation No. 050R4800407, I affirm the following:

1. I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of 10 percent and, if specified in the solicitation subgoals of (N/A) percent for MBEs classified as African American-owned and (N/A) percent for MBEs classified as women-owned. I commit to make a good faith effort to achieve this goal.
2. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
3. The solicitation process was conducted in such a manner so as to not place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors.

I solemnly affirm under the penalties of perjury that the contents of this paper are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Bidder Name

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name, Title

\_\_\_\_\_  
Date

**SUBMIT THIS AFFIDAVIT WITH BID**

## ATTACHMENT H-2

### **OUTREACH EFFORTS COMPLIANCE**

### **STATEMENT**

In conjunction with the bid submitted in response to Solicitation No. 050R4800407, I state the following:

1. Bidder identified opportunities to subcontract in these specific work categories:
  
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified MBEs for these subcontract opportunities.
  
3. Bidder made the following attempts to contact personally the solicited MBEs:
  
4. ☐ Bidder assisted MBEs to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)
  
- ☐ This project does not involve bonding requirements.
  
5. ☐ Bidder did/did not attend the pre-bid conference  
☐ No pre-bid conference was held.

\_\_\_\_\_  
Bidder Name

By: \_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

**SUBMIT THIS STATEMENT WITH BID**

## ATTACHMENT H-3

### **MBE PARTICIPATION**

### **SCHEDULE**

Prime Contractor (Firm Name, Address, Phone)	Project Description
Project Number	Total Contract Amount \$
List Information For Each Certified MBE Subcontractor On This Project	
A. Minority Firm Name, Address, Phone MBE Classification: _____	
MBE Certification Number	
Work To Be Performed	
Project Commitment Date	Project Completion Date
Agreed Dollar Amount	Percentage Of Total Contract
B. Minority Firm Name, Address, Phone MBE Classification: _____	
MBE Certification Number	
Work To Be Performed	
Project Commitment Date	Project Completion Date
Agreed Dollar Amount	Percentage Of Total Contract
C. Minority Firm Name, Address, Phone MBE Classification: _____	
MBE Certification Number	
Work To Be Performed	
Project Commitment Date	Project Completion Date
Agreed Dollar Amount	Percentage Of Total Contract
D. Minority Firm Name, Address, Phone MBE Classification: _____	
MBE Certification Number	
Work To Be Performed	
Project Commitment Date	Project Completion Date
Agreed Dollar Amount	Percentage Of Total Contract

MBE Firms Total Dollar Amount Overall \$ \_\_\_\_\_  
MBE Firms Total Percentage Overall \_\_\_\_\_ %  
African American MBE Dollar Amount \$ \_\_\_\_\_  
African American MBE Percentage \_\_\_\_\_ %  
Women MBE Dollar Amount \$ \_\_\_\_\_  
Women MBE Percentage \_\_\_\_\_ %

List Additional MBE Subcontractors Or Provide  
Any Additional Comments on Separate Paper.

**SUBMIT THIS SCHEDULE WITH BID**

Document Prepared By: (please print or type)  
Name: \_\_\_\_\_

## ATTACHMENT H-4

### **SUBCONTRACTOR PROJECT PARTICIPATION**

### **STATEMENT**

SUBMIT ONE FORM FOR EACH CERTIFIED MBE LISTED IN THE MBE PARTICIPATION SCHEDULE

Provided that \_\_\_\_\_ is awarded the State contract in  
(Prime Contractor Name)

conjunction with Solicitation No. 050R4800407, it and \_\_\_\_\_,  
(Subcontractor Name )

MDOT Certification No. \_\_\_\_\_, intend to enter into a contract by which

Subcontractor shall:  
(describe work) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ No bonds are required of Subcontractor
- ☐ The following amount and type of bonds are required of Subcontractor:

\_\_\_\_\_  
Prime Contractor Signature

By: \_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Subcontractor Signature

By: \_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

**SUBMIT THIS STATEMENT WITH BID**

**ATTACHMENTS H-5 & 6**  
**PRIME CONTRACTOR MBE REPORTING INSTRUCTIONS**

**IFB# 050R4800407**

**BPO#:** \_\_\_\_\_

These instructions are meant to accompany the customized reporting forms sent to you by the Procurement Officer for the contract referenced above. If, after reading these instructions, you have additional questions or need further clarification, please contact the Procurement Officer immediately.

1. **As the prime contractor, you have entered into a contractual agreement with the State of Maryland. As such, your company/firm is responsible for successful completion of all deliverables under the contract, including your commitment to making a good faith effort to meet the MBE participation goal(s) established for this contract. Part of that effort, as outlined in the IFB, includes submission of monthly reports to the State regarding the previous month's MBE payment activity. Reporting forms H-5 (Prime Contractor Paid/Unpaid MBE Invoice Report) and H-6 (Subcontractor Paid/Unpaid MBE Invoice Report) are attached for your use and convenience.**
2. The prime contractor must complete a separate form H-5 for each MBE subcontractor for each month of the contract and submit one copy to each of the locations indicated at the bottom of the form. The report is due not later than the 15<sup>th</sup> of the month following the month that is being reported. For example, the report for January's activity is due not later than the 15<sup>th</sup> of February. With the approval of the contract manager, the report may be submitted electronically. **Note: Reports are required to be submitted each month, regardless of whether there was any MBE payment activity for the reporting month.**
3. The prime contractor is responsible for ensuring that each subcontractor receives a copy (e-copy and/or hard copy) of form H-6. The prime contractor should make sure that the subcontractor receives all the information necessary to complete the form properly, i.e., all of the information located in the upper right corner of the form. It may be wise to customize form H-6 (upper right corner of the form) for the subcontractor the same as the form H-5 was customized by the Procurement Officer for the benefit of the prime contractor. This will help to minimize any confusion for those who receive and review the reports.
4. **It is the responsibility of the prime contractor to make sure that all subcontractors submit reports not later than the 15<sup>th</sup> of each month regardless of whether there was any MBE payment activity for the reporting month.** Actual payment data is verified and entered into the State's financial management tracking system from the subcontractor's H-6 report only. Therefore, if the subcontractor(s) do not submit their H-6 payment reports, the prime contractor cannot and will not be given credit for subcontractor payments, regardless of the prime contractor's proper submission of the H-5 reports. The contract manager will contact the prime contractor if reports are not received each month from either the prime contractor or any of the identified subcontractors. The prime contractor must promptly notify the contract manager if, during the course of the contract, a new MBE subcontractor is utilized. Failure to comply with the MBE reporting requirements and/or failure to make a good faith effort to meet the MBE goal(s) will cause the prime contractor to have an unfavorable standing with the Department for future contracting opportunities.



This form is to  
be completed  
monthly by  
the **Prime**  
contractor.

## ATTACHMENT H-5

### Maryland Department of Budget and Management Minority Business Enterprise Participation Prime Contractor Paid/Unpaid MBE Invoice Report

Report #: __1__	Contract # _____
Reporting Period (Month/Year): __/____	Contracting Unit _____
<b>Report Due By the 15<sup>th</sup> of the following Month.</b>	Contract Amount _____
	MBE Sub Contract Amt. _____
	Contract Begin Date _____
	Contract End Date _____
	Services Provided _____

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX:		
Subcontractor Name:		Contact Person:	
Phone:	FAX:		
Subcontractor Services Provided:			
<b>List all payments made to MBE subcontractor named above during this reporting period.</b>  1.  2.  3.  4.  <b>Total Dollars Paid: \$</b> _____		<b>List dates/amounts of any unpaid invoices received from subcontractor during this reporting period.</b>  1.  2.  3.  4.  <b>Total Dollars Unpaid: \$</b> _____	

\*\*If more than one MBE subcontractor is used for this contract please use separate forms.

**Return one (1) copy of this form to each of the following addresses:**

Department of Budget and Management Office of Information Technology ATTN: PMO Office 45 Calvert Street, 4 <sup>th</sup> Floor Annapolis, MD 21401	MBE Liaison Officer Department of Budget and Management Procurement Unit, Room 109 45 Calvert Street Annapolis, MD 21401 jmontague@dbm.state.md.us
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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ATTACHMENT H-6**

This form is to be  
completed monthly  
by the **MBE**  
contractor.

**Maryland Department of Budget and Management**  
**Minority Business Enterprise Participation**  
**Subcontractor Paid/Unpaid MBE Invoice Report**

Report _____  Month/Year _____  <b>Report Due By the 15<sup>th</sup> of the following Month.</b>	Contract # _____ Contracting Unit _____ Contract Amount _____ MBE Sub Contract Amt. _____ Contract Begin Date _____ Contract End Date _____ Services Provided _____
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MBE Subcontractor Name:		
MDOT Certification #		
Contact Person		
Address:		
City	State:	ZIP:
Phone:	FAX:	
Subcontractor Services Provided:		
<b>List all payments received from Prime Contractor in the preceding 30 days.</b> 1.  2.  3.  <b>Total Dollars Paid: \$</b> _____	<b>List dates and amounts of any outstanding invoices.</b> 1.  2.  3.  <b>Total Dollars Unpaid: \$</b> _____	
Prime Contractor Name: _____ Contact Person: _____		

Return one (1) copy of this form to each of the following addresses:

Department of Budget and Management Office of Information Technology ATTN: PMO Office 45 Calvert Street, 4 <sup>th</sup> Floor Annapolis, MD 21401	MBE Liaison Officer Department of Budget and Management Procurement Unit, Room 109 45 Calvert Street Annapolis, MD 21401
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Signature: \_\_\_\_\_ Date: \_\_\_\_\_